

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3720 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R. TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

DABHI L BADABHAI

Versus

STATE OF GUJARAT

Appearance:

MR Dharendra Mehta for Mr.PV HATHI for Petitioners
Mr.K.P. Raval, ASSTT GOVERNMENT PLEADER for Respondent No.1
MR BG PATEL for Respondent No. 3

CORAM : MR.JUSTICE RAVI R. TRIPATHI

Date of decision: 16/02/2001

ORAL JUDGEMENT

The present petition is filed by as many as 18 persons, the inhabitants of Laxmipura, Taluka Khedbrahma, District Sabarkantha. The case of the petitioner is that

respondents no.1 and 2, i.e. State of Gujarat and Collector, Sabarkantha were not discharging their duties as enunciated by various Govt. Resolutions, regularising possession of small areas of land which is occupied the petitioners in order to survive as human beings even though the said issue is pending for consideration since last ten years.

2. Brief facts of the case are that land bearing survey no.565/A/1 and 565/A/2, in all admeasuring more than 650 acres situated at village Laxmipura was merged as a gauchar land. It is the case of the petitioners that some of the petitioners are in occupation of small pieces of land in those survey nos. since 1968-- 69 and some of them are in possession since 1973-- 74. Mr.Mehta, learned advocate for the petitioners pointed out a copy of Village Form No.6 wherein entry no.907 dated 10.11.1974 came to be passed, which reads as under:

" On the basis of the Taluka Order No.LND/WS/ 918/ 74 dated 24.6.74 for entering on the Govt. Head by deleting from the gauchar based on the order of the Asstt. Collector, Himatnagar bearing No.LND/WS/ 74 dated 20.5.74 qua land bearing survey no.565/A/1 paiki land ad measuring A.37.1 G based on the order of the Collector bearing No.LND/WS/ 1109/ 74 DATED 10.5.74 for giving the land to persons belonging to Thakarda community in lieu of the land washed out by Harnav river, by deleting from the gauchar head, this entry is made."

From this it is clear that there was an order passed by Collector to the effect that the land admeasuring 37 acres and 1 guntha was ordered to be deleted from the head of gauchar and the same was to be utilised for the purpose of giving it to persons belonging to Thakarda community on account of the land being washed out by 'Harnav' river.

3. Mr.Mehta, learned advocate then pointed out that since then they are pursuing the authorities seeking appropriate order pursuant to the same. They approached elected representatives, who in turn addressed the Revenue authorities asking the latter to look into the matter. However, the Revenue authorities stated that the matter is referred to the Collector, Himatnagar for appropriate action, but everything has remained in the well known bureaucratic machinery for keeping them in abeyance and no fruitful result could yield in favour of the petitioners.

4. Mr.Mehta also pointed out that some of the petitioners approached the Court of learned Civil Judge, Junior Division, Idar against Gram Panchayat (where State Govt was not joined as a party) being Suit No.155 of 1981, as stated in para 6 of the petition. The same was dismissed in October 1995. Thereafter, subsequent appeals were preferred which also have failed.

5. When this petition came to be filed in the year 1990, this Court passed an order to the effect that,

"Rule. By way of ad interim relief the respondents are directed to maintain status quo as on today."

6. This order continued till date. Today, there are two contesting claims about the possession, one that petitioners are in possession and another that they are not in possession. Be that as it may. Today this petition can be disposed of with a direction to the Collector, Sabarkantha District, Himatnagar, that he shall personally look into the matter and pass appropriate orders on the subject matter. In view of copy of Village Form No.6, of Village Laxmipura, Taluka Khedbrahma, produced at Annexure 'B' and also in view of the documents produced at Annexures 'E' and 'F' and looking to the age of the matter it is expected that the Collector shall decide the matter within the period of three months from the date of the receipt of this order. It is made clear that Laxmipura Gram Panchayat will also be afforded an opportunity to represent their case before the Collector while deciding the matter in question. The Collector is expected to give an opportunity of hearing to the petitioners and also an opportunity to produce whatever material the petitioners want to produce in support of their case before the Collector.

7. Mr.Mehta, learned advocate requested that the interim relief granted on the date of admission of this petition on 18.5.1990 and continued for all these years may be continued for some time after the Collector decides the matter. The request is just and proper. Hence the order of status quo shall continue for the period of four weeks from the date of the order of the Collector communicated to the petitioner by a Registered Post Ack. Due.

8. The Special Civil Application is disposed of with the aforesaid directions. Rule is made absolute to the aforesaid extent. No order as to costs.

(Ravi R. Tripathi, J.)

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